

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated July 10, 2007. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

In the Office Action, the drawings are objected to under 37 CFR 1.83(a) for allegedly not showing every feature of the invention specified in the claims. The Office Action alleges on page 2, section 4 that the rod having a combination of straight and curved edges that vary in configuration along the length of the rod (as recited in Claim 33) is not shown in the drawings. The drawings are also objected to for not showing the features of claim 39. In response, FIG. 6 is replaced and drawing sheets including new FIGs. 7-11 are enclosed. Further, the specification is amended for conformance with the FIGs. 6-11. Consideration and acceptance of the Replacement and New drawings sheets is respectfully requested. In light of the replacement and new drawing sheets including FIGs. 6-11 and the corresponding amendments to the specification, Applicants respectfully request withdrawal of the drawing objections.

In the Office Action, Claims 19-30, 37 and 38 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,488,397 (Masutani) in view of U.S. Patent No. 4,954,931 (Hassler). Claims 31-33 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Masutani in view of Hassler. Claim 34 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Masutani in view of U.S. Patent No. 5,390,466 (Ashall). The Office Action also rejects Claims 35-36 under 35 U.S.C. §103(a) as allegedly being unpatentable over Masutani in view of Hassler and in further view of U.S. Patent No. 6,267,492 (Reid). Claims 39-42 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Masutani in view of U.S. Patent No. 5,134,549 (Yokoyama). It is respectfully submitted that claims 19-42 are patentable over Masutani, Hassler, Ashall, Reid and Yokoyama for at least the following reasons.

It is noted herein that the current Office Action merely recites a same position as previously recited in the Office Action that issued January 16, 2007. Rather than rehash the arguments previously provided, it is urged that the prior remarks provided by the Applicants, which are incorporated herein as if set out in

entirety, be reviewed in detail. Since the Response to Arguments section (page 14) provided in the current Office Action makes no attempt to address the remarks previously provided, it is difficult to redress this matter without a restatement of what the Applicants believe is the errors in the statements made in each of the current Office Action and the prior Office Action of January 16, 2007.

The Office Action has taken a position that elements of the claims, such as claims 31-33, merely recite "a change in shape or configuration, [which] without any criticality, is nothing more than one of numerous shapes that one of ordinary skill in the art will find obvious to provide based on the suitability for the intended final application." (See, Office Action, page 8, numbered paragraph 14.) The Office Action goes on to cite the present application for support of this position. These points are respectfully refuted. It is respectfully submitted that the choice, for example, of a shape of the "rod" is critical to some aspects of the present system and is not a mere obvious design choice. As proof of this position, the Applicants respectfully submit that class 362, subclasses 555, 560, 623, 627, 628 have been searched by the Examiner including hundreds of references that are

noted and were considered in preparing and presenting the Office Actions (see, file history, search information dated March 8, 2006, and updated searches of August 9, 2006, January 16, 2007, July 7, 2007). The Applicants have cited an additional 14 references for consideration. However, there is yet to be cited a prior art reference that discloses or suggests these modifications. It is respectfully submitted that it is the Applicants that recognized that (emphasis added) "[i]t is also possible to use other cross-sections [to alter the angular distribution of light reflected by the present system]. In particular, the cross-sections may be elliptical, square, or more generally, any combination of straight and curved edges, possibly varying in configuration along the length of the rod. These generalizations allow further control of the output angular distribution, permitting an inexpensive customization of distinct illumination products."

It is respectfully submitted that these variations are nowhere recognized in the art of record and/or the art considered in preparation of the Office Actions. These elements of the claims are more than mere design choice based on suitability for an intended design. It is these changes in shape that permit an

inexpensive customization as disclosed in the present application. It is respectfully submitted that this inexpensive solution is not recognized by the art of record. Accordingly, consideration of these elements is respectfully requested.

The Applicants intend to address the positions taken in the Office Action based on each of the cited references individually to redress the positions taken for what a combination of the references suggests. The Applicants understand that "one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references", however, when rejections are based on a combination of references, it is relevant to consider what each of the cited references teaches to understand what is shown in combination without utilizing a benefit of hindsight selection and modification of elements based on the present patent application.

It is submitted that Masutani is the only reference cited that is directed to utilizing a reflecting layer as an outcoupling material. The Office Action has taken a position that elements shown in other references which teach a transmissive outcoupling material may be suitably applied to Masutani. This position is

respectfully refuted. The prior art must be taken as a whole to determine what is disclosed or suggested by the prior art without utilizing the present patent application as a template for the selection or modification. For example, the Office Action has taken a position that it would have been obvious to adjust the angular width of the outcoupling material of Masutani to ensure uniform light distribution along the length of the rod, as per the teachings of Hassler. The Applicants respectfully disagree.

In the present rejections, the Office Action has not identified any teaching or suggestion or motivation in Hassler for adjusting a reflective layer as shown in Masutani. Hassler shows a transmissive window etched into the surface of the light transmitting device while Masutani shows a reflective coating on the light transmitting device. Hassler states that "the frosting forms a surface which transmits as opposed to reflects". (See, column 3, lines 21-22.) Accordingly, it is submitted that a person of ordinary skill in the art would recognize, as Hassler clearly did, that there are different means of coupling light out of the transmissive rod. Hassler selected a transmissive surface and modifications thereof with this knowledge. Nowhere within the four

corners of Hassler is it suggested that these modifications may be made to a reflective surface or even that such a modification is desirable. Hassler issued in September 4, 1990. How can the Office Action take a position that these modifications are obvious when Matsutani was filed nearly ten years after Hassler, yet Matsutani does not disclose or suggest these modifications.

It is respectfully submitted that making these modifications to a reflective surface was not obvious to Matsutani and only appears obvious based on hindsight provided by the present patent application. In consideration of the use of improper hindsight for rendering a claim obvious in light of prior art, the Federal Circuit has stated that "to draw on hindsight knowledge of the patented invention, when the prior art does not contain or suggest that knowledge, is to use the invention as a template for its own reconstruction - an illogical and inappropriate process by which to determine patentability." (Sensonics, Inc. v. Aerosonic Corp., 81 F.3d 1566, 38 USPQ2d 1551 (Fed. Cir. 1996). "To imbue one of ordinary skill in the art with knowledge of the invention ensued, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect

of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." (In re Zurko, 111 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997)). "A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field (cited reference omitted). Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one 'to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher (cited references omitted).'" (In re Kotzab, 208 F.3d 1352, 54 USPQ2d 1308 (Fed. Cir. 2000)).

It is respectfully submitted that the modifications to a reflective outcoupling material as recited in the present claims is nowhere disclosed or suggested by the art of record or any of the numerous other art references considered. It is for these reasons that it is submitted that the rejections are premised on hindsight and must be withdrawn. Therefore, it is respectfully submitted

that the references in combination do not show the reflective outcoupling material affixed to an outer surface of the rod that varies along the length of the rod as required by claims 19, 37 and 38.

Based on the foregoing, the Applicants respectfully submit that independent claims 19, 37 and 38 are patentable over Masutani in view of Hassler and notice to this effect is earnestly solicited. Claims 20-36 depend from claim 19 and accordingly are allowable for at least these reasons as well as for the separately patentable elements contained in the claims. Ashall and Reid are introduced for rejecting dependent claims and do not cure the defects in Musatani and Hassler.

For example, Ashall similarly shows a transmissive outcoupling material and accordingly, modifications of the transmissive outcoupling material of Ashall may not be suitably applied to Masutani as suggested in the Office Action. Ashall does not show a reflective outcoupling material comprising a combination of white paint and fine dots with varying packing density as required by dependent claim 34. In Ashall, the paint dots are applied to the surface they are meant to illuminate, or in other words, to

transmit light rather than reflect light. Since Ashall does not disclose paint dots that reflect light, Ashall does not show a reflective outcoupling material comprising a combination of white paint and fine dots as required by claim 34 of the present invention. Therefore, it is respectfully submitted that dependent claim 34 is respectfully allowable for these further reasons. Accordingly, separated consideration and allowance of each of the dependent claims is respectfully requested.

Yokoyama is newly cited in the Office Action in support of rejecting claims 39-42. However, as with the other cited references utilized in combination with Matsutani, Yokoyama merely shows a transmissive outcoupling material (see diffusing plate 3 in the figures) which operates by "light scattered by the diffusing plate 3 ... [emerging] as diffused light out of the diffusing surface 3." (See, Col. 1, lines 26-29.) The Office Action takes a position that Yokoyama shows (emphasis added) "a reflective outcoupling material" (as recited in Claim 39), Figure 11, reference number 6", "the angular width of the reflective outcoupling material varying along the length of the rod (as recited in Claim 39), as seen in Figure 19" and "the reflective outcoupling material

being distributed in a series of stripes perpendicular to the length of the rod (as recited in Claim 39), as seen in Figure 19". (See, Office Action, page 13.) However, reference 6 of Figure 11 merely refers to patterns 6 of the transmissive material of Yokoyama. Similarly, Figure 19 merely also shows the transmissive material. In fact, nowhere within the four corners of Yokoyama is it disclosed or suggested that modifications may be made to a reflective outcoupling material.

Based on the foregoing, the Applicants respectfully submit that independent claim 39 is patentable over Masutani in view of Yokoyama and notice to this effect is earnestly solicited. Claims 40-42 depend from claim 39 and accordingly are allowable for at least these reasons as well as for the separately patentable elements contained in the claims.

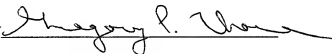
Accordingly, separate consideration and allowance of these dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the

presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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Enclosures: 1 replacement drawing sheet including FIG. 6
2 new drawing sheets including FIGs. 7-11

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